

1 HONORABLE MARC BARRECA

2 HEARING DATE: OCTOBER 1, 2010
3 HEARING TIME: 9:30 A.M.
4 LOCATION: ROOM 7106, SEATTLE
5 RESPONSE DUE: SEPTEMBER 24, 2010

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8 UNITED STATES BANKRUPTCY COURT
9 WESTERN DISTRICT OF WASHINGTON

10 In re
11 LEEWARD SUBDIVISION PARTNERS LLC,
12 Debtor.

13 No. 10-19794

14 GDR LENDING, LLC'S RESPONSE TO
15 (1) MOTION TO WITHDRAW AS
16 ATTORNEY FOR DEBTOR, AND (2)
17 MOTION FOR ORDER CONTINUING
18 HEARING ON MOTION FOR RELIEF
19 FROM STAY AND/OR DISMISSAL

20 GDR Lending, LLC (“GDR”) hereby responds to the Motion to Withdraw as Attorney for
21 Debtor (“Motion to Withdraw”) and the motion for a continuance of the hearing on GDR’s pending
22 motion.

23 Prior to the filing of the Motion to Withdraw, GDR filed a Motion to Dismiss or in the
Alternative for Relief from Stay (“Motion to Dismiss”) to permit GDR to resume foreclosure
proceedings on real property of the estate that were pending as of the commencement of this case.
See Docket No. 11. As detailed in the Motion to Dismiss, this is the second Chapter 11 case filed by
the debtor in the past 12 months, the first case having been dismissed by Judge Glover based upon the

1 debtor's inability to present a confirmable plan. The Motion to Dismiss is presently set for hearing on
2 October 1, 2010, with the Debtor's response due on Friday, September 24, 2010.

3 A Notice of Appearance and Substitution of Counsel on Behalf of Leeward Subdivision
4 Partners, LLC was filed on Thursday, September 23, 2010. Docket No. 20. On the same day,
5 substitute counsel for the debtor filed a motion to continue the hearing on GDR's Motion to Dismiss
6 for two (2) weeks ("Motion to Continue). Docket No. 21. Substitute counsel has not yet filed an
7 application for approval of his employment.

8 When evaluating motions to withdraw as counsel, courts should consider the following factors:
9 "1) the reason withdrawal is sought; 2) the prejudice the withdrawal may cause to other litigants;
10 3) the harm withdrawal may cause to the administration of justice; and 4) the degree to which
11 withdrawal may delay resolution of the case." In re Blackwell, 2009 WL 5064809 (Bankr. M.D.N.C.
12 2009). As to the first element, counsel has not stated a particular reason for requesting leave to
13 withdraw. Each of the other elements weighs in favor of GDR.

14 GDR has no objection to initial counsel's withdrawing as counsel for the debtor. Neither does
15 GDR object to the debtor's Motion to Continue so long as the continuance does not exceed the
16 requested two weeks, the Court's calendar permitting. However, if initial counsel is permitted to
17 withdraw prior to the completion of the hearing on the Motion to Withdraw and substitute counsel (as
18 did initial counsel) determines in the interim that he will not proceed on behalf of the debtor, it is
19 likely the debtor will appear at the hearing unrepresented and seek yet further delay of the hearing on
20 the Motion to Dismiss.¹ GDR will therefore be prejudiced and resolution of the second iteration of

21 ¹ In his declaration in support of the debtor's Motion to Continue, proposed substitute counsel set forth a
22 number of facts primarily relating to testimony provided at the Section 341 hearing held on Tuesday,
23 September 21, 2010. One would normally expect this sort of declarative testimony to come directly from a
representative of the debtor rather than counsel. GDR assumes this was done for convenience and not to
convert counsel into a fact witness, which would further delay resolution of this case.

this single asset bankruptcy case will be further delayed. Thus, to the extent counsel seeks to withdraw prior to the hearing on GDR's Motion to Dismiss, GDR objects to the Motion to Withdraw.

For the foregoing reasons, GDR does not object to a two-week continuance of the hearing on the Motion to Dismiss, and respectfully requests that the Court permit initial counsel to withdraw as counsel for the Debtor only after the earlier of completion of the hearing on GDR's Motion to Dismiss, or this Court's approval of the employment of substitute counsel.

DATED this 24th day of September, 2010.

BUSH STROUT & KORNFELD

By /s/ JAMES L. DAY
James L. Day, WSBA #20474
Attorneys for GDR Lending, LLC

Declaration of Service

Vivian Braxton declares as follows:

That on the 24th day of September, 2010, I caused to be electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons:

Laughlan H Clark on behalf of Special Request Zender Thurston PS
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James L Day on behalf of Special Request GDR Lending LLC jday@bskd.com,
chartung@bskd.com; psutton@bskd.com; vbraxton@bskd.com; mbeck@bskd.com; bmorgan@bskd.com

Larry Feinstein on behalf of Debtor Leeward Subdivision Partners LLC
lbf@chutzpa.com

Larry B. Feinstein on behalf of Debtor Leeward Subdivision Partners LLC
feinstein2010@gmail.com

Jill I Lunn on behalf of US Trustee United States Trustee Jill.I.Lunn@usdoj.gov, Young-Mi.Petteys@usdoj.gov; Tara.Maurer@usdoj.gov; Martha.A.VanDraanen@usdoj.gov

Marc Stern on behalf of Debtor Leeward Subdivision Partners LLC
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Marc S. Stern on behalf of Debtor Leeward Subdivision Partners LLC
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United States Trustee USTPRegion18.SE.EDF@usdoj.gov

I declare under penalty of perjury under the laws of the state of Washington that the foregoing Proof of Service is true and correct.

DATED at Seattle, Washington, this 24th day of September, 2010.

/s/ Vivian Braxton

Vivian Braxton

Assistant to James L. Day, WSBA #20474

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WITHDRAW AS ATTORNEY FOR DEBTOR, AND (2) MOTION
FOR ORDER CONTINUING HEARING ON MOTION FOR